

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DWAYNE STEVEN MONTGOMERY,

Plaintiff,

v.

J. MORENO, K. KIRKENDALL, C.  
LAMONT, PATRICK COVELLO, C.  
WILLIAMS, S. WONG, G. SMITH, S.  
GATES, B. HOLMES, R. ROY,

Defendants.

Case No. 1:22-cv-00078-HBK

ORDER DIRECTING TRANSFER OF CASE  
TO THE SACRAMENTO DIVISION

(Doc. No. 1)

Plaintiff Dwayne Montgomery initiated this action proceeding *pro se* by filing a prisoner civil rights complaint under 42 U.S.C. § 1983 on January 20, 2022. (Doc. No. 1). Plaintiff neither paid the filing fee, nor accompanied the filing of his complaint with an application to proceed *in forma pauperis*. (See docket). Plaintiff filed the complaint while incarcerated at Mule Creek State Prison (“MCSP”) located in Ione, California in Amador County. The incidents giving rise to the cause of action also appear to have all occurred at MCSP. Because the events giving rise to the cause of action occurred in Amador County, also where Defendants appear to work, Plaintiff should have filed his complaint in the Sacramento Division of this Court. See 28 U.S.C. § 1391(b); see also *Ziegler v. Indian River County*, 64 F.3d 470, 474 (9th Cir. 1995) (reviewing federal court jurisdiction and venue in a § 1983 action). Pursuant to Local Rule 120(f), a civil action which has not been commenced in the proper court may, on the court’s own

1 motion, be transferred to the correct court. The Court finds it in the interests of justice to transfer  
2 this case to the Sacramento Division under 28 U.S.C. § 1406(a).

3 Accordingly, it is **ORDERED**:

4 The Clerk of Court is directed to transfer this action to the Sacramento Division of this  
5 Court.

6  
7 Dated: January 21, 2022

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE